

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DANIEL RAYFEL WILLIAMS,

Plaintiff,

No. C 12-0272 PJH (PR)

v.

**ORDER GRANTING LEAVE TO
PROCEED IN FORMA PAUPERIS
AND DISMISSING CASE**

J. DOE, Secretary of Corrections,
and J. DOE, Secretary of Mental
Health (California State),

Defendant.

This is a pro se civil rights complaint under 42 U.S.C. § 1983 filed by a patient of
Atascadero State Hospital.

DISCUSSION

A. Standard of Review

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). In its review the court must identify any cognizable claims, and dismiss any claims which are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. *Id.* at 1915A(b)(1),(2). Pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).

Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the claim showing that the pleader is entitled to relief." "Specific facts are not necessary; the statement need only "give the defendant fair notice of what the . . . claim is and the grounds upon which it rests."" *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (citations

omitted). Although in order to state a claim a complaint “does not need detailed factual allegations, . . . a plaintiff’s obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do. . . . Factual allegations must be enough to raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citations omitted). A complaint must proffer “enough facts to state a claim to relief that is plausible on its face.” *Id.* at 570. The United States Supreme Court has recently explained the “plausible on its face” standard of *Twombly*: “While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations. When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged deprivation was committed by a person acting under the color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988).

B. Legal Claims

Plaintiff contends that his plea agreement with the parole board was breached when instead of being released on parole he was transferred to a state mental hospital. The relief he seeks is “an order releasing me to the streets (San Francisco, CA.) to finish my term of parole there.”

Habeas is the “exclusive remedy” for the prisoner who seeks “‘immediate or speedier release’” from confinement. *Skinner v. Switzer*, 131 S.Ct. 1289, 1293 (2011) (quoting *Wilkinson v. Dotson*, 544 U.S. 74, 82 (2005)); see *Calderon v. Ashmus*, 523 U.S. 740, 747 (1998); *Edwards v. Balisok*, 520 U.S. 641, 648 (1997); *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973). Because plaintiff seeks only release from his confinement, he must bring his claim in a habeas case.

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1 A civil rights complaint seeking habeas relief should be dismissed without prejudice
2 to bringing it as a petition for writ of habeas corpus. See *Trimble v. City of Santa Rosa*, 49
3 F.3d 583, 586 (9th Cir. 1995). That will be done here.

4 **CONCLUSION**

5 Leave to proceed in forma pauperis (docket # 7) is **GRANTED**. For the reasons set
6 out above, this action is **DISMISSED** without prejudice. The clerk shall close the file.

7 **IT IS SO ORDERED.**

8 Dated: October 25, 2012.



PHYLLIS J. HAMILTON
United States District Judge